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INTERNATIONAL TECHNICAL CONFERENCE ON THE CONSERVATION
OF THE LIVING RESOURCES OF THE SEA

SUMMARY RECORD OF THE TWENTY-THIRD MEETING

held on 10 May 1955 at 10 a.m.

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CHAIRMAN: Mr. SUNNANAA (Norway)

1... CONSIDERATION OF THE REPORT OF THE GENERAL COMMITTEE ON THE CONSENSUS
OF THE CONFERENCE ON ITEMS 12 (b) AND (c) OF THE AGENDA (A/CONF.10/L.36)
(continued)

Mr. ECHEVERRI-HERRERA (Colombia), referring to the discussion during the twenty-second meeting on document A/CONF.10/L.36, recalled that his delegation had maintained from the outset that the Conference should refrain from discussing its competence to deal with the subjects covered by the document, since it was obviously competent to discuss and to take decisions on that document. His delegations noted with satisfaction that despite the Acting Chairman's unjustified interruptions during its first intervention in the debate, further developments had proved its views to be correct, since (a) the meeting had finally decided that it was competent to discuss document A/CONF.10/L.36, and some delegations which had voted against that decision had actually taken part in the debate and submitted amendments to the document; (b) the Acting Chairman had eventually accepted the Colombian representative's suggestion that the document should be taken paragraph by paragraph; (c) the Colombian amendments to paragraph 2 had been accepted unanimously; and (d) the Colombian delegation had not maintained its amendments to some of the remaining paragraphs, in view of the Chairman's declaration that the document was a purely descriptive document dealing with the international agreements on fisheries and the conservation of the living resources of the sea, and that it contained no recommendations of any kind for future agreements.

He did not wish to re-open the debate, but requested that his statement be placed on record because he felt that the Acting Chairman's interruptions had not been justified and that they had not been expressed in sufficiently measured terms.

Mr. ANDERSON (Australia) pointed out that there had been 93 interventions from the floor at the twenty-second meeting and he thought that the Colombian representative had had a fair share of the floor. He, Mr. Anderson, had endeavoured to conduct the discussions impartially and he entered a strong protest against the Colombian representative's insinuations about the way in which he, as Acting Chairman, had conducted the proceedings.

2. CONSIDERATION OF THE DRAFT REPORT OF THE GENERAL COMMITTEE ON GENERAL CONCLUSIONS ON ITEMS 12 AND 13 OF THE AGENDA (A/CONF.10/L.37/Rev.1 and L.39, A/CONF.10/5).

The EXECUTIVE SECRETARY said that, in accordance with the mandate given it at the twenty-second meeting, the Secretariat proposed that the Icelandic draft statement contained in document A/CONF.10/L.39 should be incorporated as the seventh and final paragraph in document A/CONF.10/L.37/Rev.1.

On the proposal of the CHAIRMAN, it was agreed to discuss document A/CONF.10/L.37/Rev.1 paragraph by paragraph.

Paragraph 1

Mr. ANDERSEN (Iceland) suggested that in the second sentence the word "measures" be qualified by the addition of "at the national as well as the international level", in order to take account of the very important and beneficial national conservation measures adopted by various countries.

The Icelandic proposal was supported by the representatives of KOREA, CHILE and INDONESIA.

Mr. VILLA (Argentina) proposed that in the first sentence the words "high seas" be substituted for the word "sea". At no time had the sovereignty of a coastal State over its own territorial waters been questioned, and his amendment would merely make the position clear.

Mr. BRAJKOVIC (Yugoslavia) favoured the Argentina proposal.

Support for both the Icelandic and the Argentine points of view was given by the representatives of COLOMBIA, PERU, POLAND, COSTA RICA and ECUADOR.

Mr. PONCE Y CARBO (Ecuador) added that his delegation reserved its position with regard to the use of the words "general conclusions" in the title of the document.

Mr. WALL (United Kingdom) thought that since the first sentence mentioned international research and regulation, and the last the need for more conventions, it would be a pity to wedge in between them the national considerations suggested by the Icelandic representative. The mention of "high seas" would also be disturbing. He moved that the passage be adopted as it stood.

The United Kingdom motion was supported by the delegations of PORTUGAL, SPAIN, FRANCE, YUGOSLAVIA, JAPAN, ITALY and the NETHERLANDS.

Mr. OZERE (Canada) felt that the two amendments proposed were somewhat incongruous, Iceland wanting recognition of success achieved at the national level and Argentina international co-operation on the high seas.

Mr. ANDERSEN (Iceland) pointed out that the fact that the Conference was concerned primarily with the high seas did not justify ignoring national achievements, to which the Conference had paid little heed. His delegation was not asking that any specific measures at the national level might be recommended but merely that their desirability might be mentioned.

After further discussion in which the representatives of INDIA, the UNITED STATES OF AMERICA, PORTUGAL, ICELAND and the UNITED KINGDOM took part, paragraph 1 was adopted in the following form:

"The Conference notes with satisfaction measures already carried out in certain regions and for certain species, at the national and international level. International co-operation in research (including statistical investigation) and regulation in the conservation of the marine resources of the high seas is essential. The Conference considers that wherever necessary further conventions for these purposes should be negotiated."

Paragraph 2

Adopted.

Paragraph 3

Mr. VILLA (Argentina) suggested the insertion of a reference to the high seas in the fourth line.

Mr. CHOPRA (India) thought that the words "where and when" met the Argentine representative's point.

Mr. VILLA (Argentina) agreed but maintained that some mention of the high seas would be better still.

Mr. DIAZ DE ESPADA (Spain) pointed out that the new paragraph which had been added at the end of the document to include the Icelandic draft statement (A/CONF.10/L.39) covered all possible cases and removed any danger of prejudging the question of territorial waters.

Paragraph 3 was adopted with a minor textual modification.

Paragraph 4

Mr. WALL (United Kingdom) suggested that, in the third line, the word "responsibilities" should be replaced by "authority" so that the sentence should not imply that a State must take conservation measures whether they were needed or not.

Mr. ANDERSON (Australia) felt that a nation was responsible to mankind and to the future for ensuring proper conservation of the resources of the sea.

Mr. CHOPRA (India) concurred, adding that the word "responsibilities" had been selected after much consideration and discussion.

Mr. DIAZ DE ESPADA (Spain) said that he would agree to the word "responsibilities" provided it was understood that they devolved upon all countries and not only upon coastal States.

Mr. HERNANDEZ (Chile), supported by Mr. RASJID (Indonesia), suggested that both words be used, "authority and responsibilities".

Mr. ANDERSON (Australia) opposed the suggestion on the grounds that the word "authority" introduced a juridical element.

Mr. OZERE (Canada) proposed, as a compromise, the words "authority or responsibilities".

Mr. WALL (United Kingdom) was willing to accept the Canadian proposal, although he would have preferred the words "rights and duties".

The Canadian proposal was adopted.

Paragraph 4, as amended, was adopted.

Paragraph 5

Adopted.

Paragraph 6

Mr. RAMALHO (Portugal) suggested that the word "maximum" be inserted before "sustainable yield" in the seventh line.

It was so agreed.

Paragraph 6, as amended, was adopted.

On the proposal of the CHAIRMAN it was decided that the draft statement submitted by the Icelandic delegation (A/CONF.10/L.39) and already adopted at the twenty-second meeting should become paragraph 7 of document A/CONF.10/L.37/Rev.1.

Mr. OZERE (Canada) proposed that the following paragraph be added either to the report or to the formal records of the Conference:

"It is understood that any recitals or explanations of any treaties or other formal acts to which any of the States represented at this Conference are parties are not to be considered as legal interpretations of such treaties or formal acts".

Mr. ANDERSON (Australia) thought that the Canadian proposal would afford valuable protection to delegations against an impression that they might have been committing their countries on legal matters.

Mr. TSURUOKA (Japan) agreed that a juridical opinion expressed by a representative at the Conference did not necessarily commit the countries concerned. He accordingly supported the Canadian proposal.

Mr. BABAIAN (Union of Soviet Socialist Republics) suggested that the Canadian representative's text should form an additional paragraph of the report.

It was so decided.

Mr. ARIAS-SCHREIBER (Peru) explained that he would abstain from voting on document A/CONF.10/L.37/Rev.1 because in some respects its contents went beyond the terms of reference of the Conference. He would also express reservations because it only reflected the opinions of a slender majority of the delegations present.

Mr. PONCE Y CARBO (Ecuador) said that it was misleading to describe the draft report as being on "general conclusions" as was stated in its title. The report laid special emphasis on international co-operation and international measures as a means of conservation. That, however, was but one of the trends of thought which had become apparent in the Conference, and the importance of the coastal States in connexion with conservation measures had been disregarded. If it were desired to retain the words "general conclusions", a further paragraph should be added in order to take due account of the opinions of those delegations which had followed the other trend. Unless a paragraph were added to the effect that a proposal had been made in the Conference that, in the absence of international agreements, the coastal State should take any conservation measures that might be necessary, his delegation would have to make certain reservations.

Mr. FERNANDEZ (Chile) agreed with the Ecuadorian and Peruvian representatives point of view.

Mr. RAMALHO (Portugal) thought that the penultimate sentence in paragraph 6 fully answered the requirements of the Ecuadorian and Peruvian representatives.

Mr. DIAZ DE ESPADA (Spain) asked whether the Ecuadorian representative intended the Conference to state that, in the absence of any international agreement, the coastal State was entitled to regulate fisheries. If that were the case, the coastal State would be able to exercise jurisdiction over the high seas adjacent to its territorial waters merely by refusing to become a party to any international agreements.

Mr. PONCE Y CARBO (Ecuador) replied that he simply wished that the paragraph should mention what had actually taken place at the Conference, and should state that a Cuban-Mexican proposal (A/CONF.10/GC.1/Rev.1) had been put forward dealing with the point to which he had referred. It would be most undesirable to send to the International Law Commission an incomplete account of what had occurred, showing only one side of the picture. The reference in paragraph 6 to the coastal State, mentioned by the Portuguese representative, was incidental and only related to a particular point. A more direct and general statement was necessary.

The CHAIRMAN suggested that the mention contained in paragraph 5 on page 17 of document A/CONF.10/5 might satisfy the Ecuadorian representative.

Mr. ANDERSEN (Ireland) thought the Ecuadorian proposal unnecessary. However extensive coastal jurisdiction might be, large areas were bound to be outside the jurisdiction of any State. The problem referred to had been raised in other parts of the report, which was complete as it stood.

Mr. RAMALHO (Portugal) concurred in the CHAIRMAN's suggestion.

Mr. RIVERA DEVOTO (Uruguay) agreed with the Chilean, Ecuadorian and Peruvian representatives.

Mr. ECHEVERRI-HERRERA (Colombia) also agreed with the Chairman's suggestion. He was in favour of the coastal State being responsible for conservation in the high seas adjacent to its territorial waters. The part of the draft report under examination met with his approval insofar as it remained within the terms of reference of the Conference.

Mr. PONCE Y CARBO (Ecuador) explained that his delegation's vote on document A/CONF.10/L.37/Rev.1 would be qualified by the position it had adopted in connexion with the coastal State's responsibility for regulating the conservation of marine stocks, and by his country's legislation and the international agreements to which it had subscribed. He pointed out that the document did not reflect his delegation's position during the Conference, which had been inconsistent in discussing matters which it had previously decided not to be within its scope.

Mr. ARIAS-SCHREIBER (Peru) shared the Ecuadorian representative's views.

Mr. CHOPRA (India), with whom Mr. BRAJKOVIC (Yugoslavia) and Mr. RASJID (Indonesia) agreed, thought that the Ecuadorian representative would be satisfied if it were stated that the problem in question had also been discussed at the Conference and that no conclusion had been reached. The General Committee's document under examination was one-sided and paid scant attention to the views of the delegations which supported the rights of the coastal State. He could see no objection to adding another paragraph.

Mr. HAN (Republic of Korea) also thought that the document failed to put the case of the group of delegations which attached importance to the interests of the coastal State.

Mr. PONCE Y CARBO (Ecuador) thanked the Indian representative for correctly interpreting his position. He would formally propose the addition of a paragraph to the effect that, in the course of the Conference, it had been proposed that, in the absence of an international agreement, the coastal State had the right to regulate fisheries in the high seas near its coast.

Mr. CHOPRA (India) considered that the following text would be likely to receive the support of most delegations:

"8. The question of the special interests, rights, duties and responsibilities of the coastal States in the matter of conservation of living resources of the sea was discussed in the Conference. The opinion of the Conference on this question was more or less evenly divided. The Conference did not come to any conclusion on this question."

Mr. PONCE Y CARBO (Ecuador) and Mr. ARIAS-SCHREIBER (Peru) were in favour of the Indian proposal.

Mr. DIAZ DE ESPADA (Spain) suggested the addition at the end of the Indian proposal of the words: "which it understood to be outside its competence".

Mr. PONCE Y CARBO (Ecuador) said that the Spanish proposed amendment would entirely alter the meaning of the Indian proposal, and give an erroneous impression of what had taken place.

Mr. DE VIANA (Brazil) moved the closure of the debate under rule 21 of the rules of procedure.

Mr. DIAZ DE ESPADA (Spain) maintained his proposed amendment. The reasons why the Conference had reached no conclusion ought to be clearly explained.

Mr. HERRINGTON (United States of America) said that the Spanish representative was right in stating that the action taken had borne on the question of competence, but wondered whether the Conference would agree on the stated reasons for that action.

Mr. CHOPRA (India), Mr. WALL (United Kingdom) and Mr. OZERE (Canada) opposed the closure of the debate.

The Brazilian motion was rejected by 22 votes to 13 with 2 abstentions.

Mr. CHOPRA (India), referring to the Spanish proposed amendment, said that the Conference would be embarking on a very wide debate if the matter of competence were raised again. On both previous occasions when it had done so, the decision had been taken by a majority of one vote. The phrase "more or less evenly divided" in his own proposal exactly represented the facts.

Mr. RAMALHO (Portugal) pointed out that the Spanish proposed amendment really referred to the rejection of the Cuban-Mexican proposal (A/CONF.10/GC.1/Rev.1) as recorded in document A/CONF.10/5, page 17, paragraph 5.

Mr. HERRINGTON (United States of America) regretted that he could not support the Indian proposal, because it referred to "rights" and "duties", which introduced legal matters which the Conference had ruled were outside its scope.

Mr. OZERE (Canada) proposed, as a compromise, which might gain the widest possible support, that the second sentence of the Indian proposal should be replaced by the following:

"The opinion of the Conference on the question as to whether this matter was within the competence of the Conference was more or less evenly divided."

Mr. WALL (United Kingdom) pointed out that if the opinion of the Conference on the question of its competence had been more or less evenly divided, no decision had been taken on the question of rights. For that reason he would support either the Canadian or the Spanish proposal.

Mr. DIAZ DE ESPADA (Spain) withdrew his proposal in favour of the Canadian amendment.

Mr. HERRINGTON (United States of America) suggested that the words "this matter" be replaced by "these matters".

Mr. CHOPRA (India) proposed that the Canadian amendment be modified to read: "The opinion of the Conference on these matters and on the question as to whether the Conference was competent to consider them was more or less evenly divided".

Mr. OZERE (Canada) accepted that amendment.

The CHAIRMAN invited the Conference to adopt the combined Indian-Canadian proposal in the following form: "The question of the special interests, rights, duties and responsibilities of coastal States in the matter of the conservation of living resources of the sea was discussed in the Conference. The opinion of the Conference on these matters and on the question as to whether the Conference was competent to consider them was more or less evenly divided".

Mr. HERRINGTON (United States of America) suggested that the last sentence be replaced by: "The opinion of the Conference as to special interests and as to the competence of the Conference to deal with matters of right was more or less evenly divided."

Mr. PONCE Y CARBO (Ecuador) feared that the reference to matters of right might alter the general meaning of the Indian proposal. No definition of the rights of coastal countries had been discussed, as that would have been outside the scope of the Conference. It was the position of coastal countries which had been debated.

Mr. CHOPRA (India) thought that the point raised by the Ecuadorian representative was covered by the Canadian rather than by the United States amendment.

Mr. HERNANDEZ (Chile) agreed with the Indian representative.

The combined Indian-Canadian proposal was adopted.

The CHAIRMAN stated that three more paragraphs were to be added to document A/CONF.10/L.37/Rev.1. The Icelandic statement (A/CONF.10/L.39), already adopted, as paragraph 7, the Indian-Canadian proposal as paragraph 8, and the Canadian proposal referring to interpretations of conventions as paragraph 9. Document A/CONF.10/L.37/Rev.1, as amended and as a whole, would be included in the Draft of the Final Report of the Conference.

Rear-Admiral LLOSA (Peru) requested that the reservations expressed by certain delegations should be included in the Final Report of the Conference, as it would not otherwise be possible for such delegations to approve it.

The meeting rose at 1.15 p.m.